

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

KAMLESH BANGA,

Plaintiff,

v.

EXPERIAN INFORMATION SOLUTIONS,

Defendant.

No. C-05-4417 MMC

**ORDER GRANTING PLAINTIFF'S
UNOPPOSED MOTION FOR LEAVE TO
FILE SECOND AMENDED COMPLAINT;
VACATING HEARING**

(Docket No. 58)

Before the Court is plaintiff Kamlesh Banga's motion, filed January 3, 2007, for leave to file a second amended complaint. Pursuant to Civil Local Rule 7-3(a), any opposition was required to be filed no later than January 19, 2007. See Civil L.R. 7-3(a) (requiring opposition to be "served and filed not less than 21 days before the hearing date"). To date, no opposition has been filed. Having reviewed the papers submitted in support of the motion, the Court finds the matter appropriate for resolution without oral argument, see Civil L.R. 7-1(b), and hereby VACATES the February 9, 2007 hearing.

Where, as here, the complaint previously has been amended, the plaintiff may amend the complaint "only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires." See Fed. R. Civ. P. 15(a). Generally, leave to amend should be granted with "extreme liberality." See Eminence Capital, LLC v. Aspeon, Inc., 316 F.3d 1048, 1051 (9th Cir. 2003). In deciding whether justice requires

1 granting leave to amend, factors to be considered include the presence or absence of
2 undue delay, bad faith or dilatory motive on the part of the moving party, repeated failure to
3 cure deficiencies by previous amendments, undue prejudice to the opposing party, and
4 futility of the proposed amendment. See Eminence Capital, 316 F.3d at 1052 (citing
5 Foman v. Davis, 371 U.S. 178, 182 (1962)). “[T]he consideration of prejudice to the
6 opposing party carries the greatest weight.” Id.

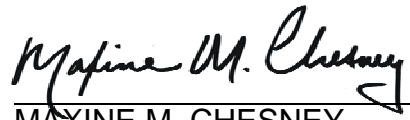
7 Here, defendant has not opposed the motion and, consequently, has made no
8 showing that it would be prejudiced if the Court were to grant the motion or that any of the
9 other Foman factors support denial of the motion.

10 Accordingly, plaintiff’s motion is hereby GRANTED. Plaintiff shall file its proposed
11 second amended complaint forthwith.

12 This order terminates Docket No. 58.

13 **IT IS SO ORDERED.**

14 Dated: January 29, 2007

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16 MAXINE M. CHESNEY
17 United States District Judge
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